

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA**

SMITHS GROUP, PLC, )  
                        )  
Plaintiff,           )  
                        )  
vs.                   )         Case No. 13-cv-00052-DSD-TNL  
                        )  
RONALD A. FRISBIE, )  
                        )  
Defendant.           )

**DEFENDANT'S MOTION TO DISMISS  
FOR LACK OF SUBJECT MATTER JURISDICTION**

Defendant Ronald A. Frisbie (“Frisbie”) respectfully moves the Court to dismiss the Complaint of Plaintiff Smiths Group, plc (“Smiths Group”) with prejudice pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure.

Smiths Group’s Complaint should be dismissed for failure to join an indispensable party, the joinder of which would preclude diversity in this case. Under 28 U.S.C. § 1339, a parent corporation is prohibited from standing in the shoes of a subsidiary to create jurisdiction. As a matter of law, the Court lacks jurisdiction over the subject matter of the Complaint.

For these reasons, as well as others set out more fully in the Memorandum in Support of Motion to Dismiss for Lack of Subject Matter Jurisdiction, together with all supporting affidavits, Frisbie moves this Court to dismiss Smiths Group’s Complaint in its entirety for lack of diversity jurisdiction.

Dated: February 8, 2013

By s/Sonya R. Braunschweig

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